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# TOWN OF WICKENBURG

MAY 21 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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Phoenix Line (602) 506-1622 • FAX (602) 506-1580

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May 20, 1993

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Secretary

ORIGINAL VIA OVERNIGHT MAIL

Federal Communications Commission  
1919 M Street  
Washington, D.C. 20554

Mr. Stephen Tsuya  
Engineer in Charge  
Federal Communications Commission Office  
P.O. Box 6  
Douglas, Arizona 85608

ORIGINAL VIA FACSIMILE TRANSMISSION 364-8414

ORIGINAL VIA OVERNIGHT MAIL TO:

11 1/2 miles north on U.S. 191 from  
junction with U.S. 80, then 1 1/2 miles  
west on private road, zip code 85607

RE: MM Docket No. 93-71  
In the Matter of  
Amendment of Section 73.202(b), RM-8134  
Table of Allotments,  
FM Broadcast Stations.  
(Wickenburg, Arizona)

## NOTICE OF PROPOSED RULE MAKING

Adopted: March 8, 1993; Released: March 31, 1993  
Comment Date: May 21, 1993  
Reply Comment Date: June 7, 1993

Dear Sir or Madam:

RE: Official Objection to Construction of a  
Radio Transmission Tower by Circle S Broadcasting

No. of Copies rec'd  
List A B C D E

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Secretary  
Federal Communications Commission

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Mr. Stephen Tsuya  
Engineer in Charge  
Federal Communications Commission Office

The Wickenburg Town Council, at its Regular Meeting on May 17, 1993, considered the issue of Circle S Broadcasting Company's request for substitution of Channel 231C3 for Channel 229A and modification of its authorization to specify operation on the higher powered channel. This matter came to the Wickenburg Town Council after being considered by one of its commissions, the Wickenburg Airport Advisory Commission. The Airport Advisory Commission had recommended to the Town Council that the Council officially oppose the application, apparently for the reason that in order to accomplish the petitioner's stated objective, a new radio transmission tower, at a height of 841', would have to be erected.

The Council heard comments from the public, as well as from the attorney for the petitioner, and thereafter passed a motion, a certified copy of which is attached and hereafter discussed. From comments and discussion, the motion evidently was based on two technical, as well as aesthetic and environmental, concerns. One of the technical concerns is the height of the tower and its potential hazard to aircraft, especially those flying in the general vicinity of Wickenburg and its Municipal Airport. The second technical discussion dealt with the potential interference of radio airwaves due to the proposed increase in power Circle S Broadcasting is seeking. I am enclosing excerpts from both the minutes of the Airport Advisory Commission and the Wickenburg Town Council meeting, and you will notice that there were concerns about airwaves interference by the extra wattage, based upon the extra wattage per se, and allegations that Circle S's present tower of 449' does create interference and distortion in reception of Phoenix television Channels 8 and 10. One individual appearing at the public hearing expressed additional concerns that the increased power would have the potential to interfere with navigational instruments, particularly those of aircraft.

I am enclosing a certified original of a motion adopted by the Wickenburg Town Council at its Regular Meeting held on May 17, 1993. You will notice that of all members of the Council voting, the motion passed unanimously.

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Mr. Stephen Tsuya  
Engineer in Charge  
Federal Communications Commission Office

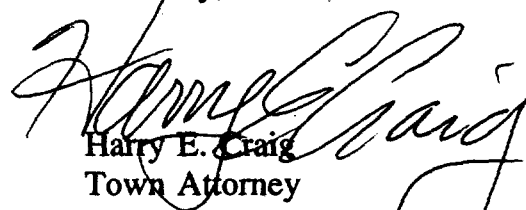
I have been assigned the task of seeing that your and other appropriate agencies are informed of the Town's official opposition to the proposed, additional radio transmission tower and wattage increase. In this role, I felt it incumbent on me to mention to your agency the previous action taken in regards to the application by the Wickenburg Airport Advisory Commission.

There was some debate as to limiting Town and public comments to only technical issues. Even though the motion itself of the Town Council does not reflect this issue, there were public comments of both technical and non-technical nature.

Accordingly, I'm enclosing excerpts from the minutes of both the Airport Advisory Commission and the Town Council so as to partially convey to you the contents of this debate, as well as to put the passage of both the Airport Advisory Commission and the Town Council motions in proper context.

Please feel free to contact me if you need additional information or if you have questions. Thank you for allowing my client's comments.

Sincerely,



Harry E. Craig  
Town Attorney

HEC:jr

Enclosures: Excerpts from minutes of Wickenburg Airport Advisory Commission  
Excerpts from minutes of Wickenburg Town Council  
Certified original of Motion adopted by Wickenburg Town Council

XC: Aaron P. Shainis, Esq.  
Lee J. Peltzman, Esq.  
Baraff, Koerner, Olender & Hochberg, P.C.  
5335 Wisconsin Avenue, N.W.  
Suite 300  
Washington, D.C. 20015

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FEDERAL COMMUNICATIONS COMMISSION  
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By consensus, this item was tabled until Dave Gilbertson arrived.

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G. New Business

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1. Discussion/Action on Notice from the Federal Communications Commission On Circle S Broadcasting's Filing for a Channel Substitution Which Would Require an Extension of Existing Broadcasting Tower Located Off Vulture Mine Road, Within the Airport's Influence Area, from 499' to 841' in Height
  - Chairman Gant cited the item as listed. Town Manager Nardelli then informed all that they recently became aware that this is not a request to extend the height of the existing radio tower, but rather a request to construct a brand new tower somewhere in the vicinity of Forepaugh, but not sure of the exact location.
  - Harold Shumway stated that this application has nothing to do with the present tower. Mr. Shumway stated that the present tower is for the AM frequency (KTIM) and the proposed new tower is for 18.2 kilometers, north longitude 33 - 58 - 00/west latitude 112 - 43 - 48 and is on the other side of a mountain south of Town. Mr. Shumway stated that the tower is proposed for 841' but it is not within the area in the jurisdiction of the Airport's influence area. Mr. Shumway stated that this has nothing to do with the present tower and it never did have and never will have. Mr. Shumway stated that the existing tower will stay as is. In response to Chairman Gant's question, Mr. Shumway stated that the proposed tower is southwest of Wickenburg and just north of the Vulture Mine. Chairman Gant questioned if power is available out there. Mr. Shumway stated that that doesn't make any difference and if they have to, they can use diesel generators as many stations do.
  - Commissioner McGuire questioned if this should be on the agenda in light of the distance from the Airport and asked if the FAA requested the Town's comments on this. Mr. Shumway stated that the FAA notifies the Town of licenses so the Town is aware that there is a proposed tower and the FCC lets the Town know there's going to be more power. Mr. Nardelli requested a specific location of the tower and the ground level at the site. Mr. Nardelli also questioned if the tower will be visible for the benefit of the people who have a problem in seeing the existing tower. Mr. Nardelli stated that he doesn't think this should just be removed from the agenda because it's further than the existing one, but rather than hear the public's outcry after it's constructed, he thinks we should be more aware of exactly where the site is and its visibility. Mr. Nardelli suggested contacting Mr. Shumway's engineer. Mr. Shumway stated that

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he gave him the latitude and longitude and the location is listed on the material he distributed (attached as Exhibit "A" to these minutes).

- Commissioner Badowski stated that he doesn't believe this belongs on the Airport Commission's agenda because it is out of the Airport's sphere of influence. Mr. Nardelli stated that if it is not in the Airport's flight pattern, the Commission may not want to comment. Commissioner McGuire questioned if the tower would be within the flight pattern. Mr. Nardelli stated that he would have to rely on the pilots of the Commission for that information.
- Chairman Gant questioned the bulletin from the FCC where it states that the radio station is proposing substituting one channel for another. Mr. Shumway stated that they are moving the FM frequency from 93.7 to 94.1 and it has nothing more to do than a move of frequency. Mr. Shumway stated they are not adding a station, but merely changing frequencies.
- Commissioner McGuire again questioned if it outside the Airport's traffic area. Mr. Shumway stated that this is approximately 12 miles southwest of Town. Chairman Gant questioned what the distance from the Airport would be. Mr. Shumway stated that it is about six miles from the Airport.
- Chairman Gant stated that the Town has taken a bit of heat over the existing tower and they're just trying to make sure that the Commission is upholding what they are suppose to do and are trying to get comfortable with what is being proposed.
- Andy Anderson, County resident (Los Cab), questioned if this is just a change in frequencies, what is the disposition, in a change of location, of the tower that is in existence now. Mr. Shumway stated that the AM radio station will remain at the existing tower and it will stay where it is.
- Vi Wellik questioned how in this day and age, could a tower (existing) like this be erected without an environmental study. Ms. Wellik stated that what this tower has done to the scenic beauty of Vulture Peak, is a total disgrace. Ms. Wellik stated that Vulture Peak is a monument in this Town and the whole thing is a disgusting situation which never should have happened. Ms. Wellik stated that she is guilty of signing a paper from the radio station saying that I approved of the tower being erected; however, at the time, she had no idea it would be on top of hospital hill. Ms. Wellik stated that she wishes to God she could withdraw her signature. Mr. Shumway stated he didn't know what signature she was talking about. Ms. Wellik gave him a copy of the paper to which she referred.

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Ms. Wellik stated that when the existing tower was being proposed and he was interested in the land around the water tower, she told him that she thought it was too close to the airport and he'd never get it approved. Ms. Wellik stated that after that, he came back to her office a second time and asked for her signature on a paper dated August 21, 1991, which she signed but it never said that the tower was proposed to be erected on top of hospital hill. Mr. Shumway stated that he didn't know the name of the hill, just the location. Ms. Wellik stated that she feels she was deceived and the whole thing was a misrepresentation. Ms. Wellik stated that it is very difficult to look out at what use to be beautiful Vulture Peak and now see Mr. Shumway's business. Ms. Wellik stated that she detests the sight of it.

- Town Manager Nardelli questioned Mr. Shumway if it would be possible for both towers to be at one location. Mr. Shumway responded, "No." Mr. Nardelli questioned the minimum distance it could be from the existing tower. Mr. Shumway didn't understand the question and Mr. Nardelli questioned, "Can you ask if this is approved ask for a transfer of the location to another location or

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stated that the AM radio station cannot be moved because it would not have enough power to serve the area from the proposed site of the FM. Mr. Shumway offered to give Mr. Torgerson the number of his engineer and Mr. Torgerson stated that he would appreciate having that.

- Chairman Gant stated from the Commission's standpoint, they would like to see a map confirming the location of the proposed tower. Chairman Gant stated that it appears that most of the concern being voiced tonight is with the existing tower and not the proposed tower. Mr. Shumway stated that the existing tower has nothing to do with the proposed tower. Chairman Gant stated that they understand that; however, that is where the concern is and the Commission just wants to be certain on what is being proposed now as a lot of people aren't certain what happened before. Mrs. Shumway stated that there were three public hearings at Maricopa County before they were granted permission for the existing tower. Mrs. Shumway stated that they were advertised and posted and no one ever showed up at those meetings.
- Bailey Potter, west side County resident (Los Cab), questioned when those hearings were and why the people who have been most severely affected by the tower, were never notified. Mr. Potter added that he is only a part-time resident and he doesn't subscribe to *The Wickenburg Sun*. Cindy Rowland of KTIM questioned, and Town Manager Nardelli confirmed, that it did come before the Town Council for comments. Mr. Potter stated that the people most severely affected by the existing tower are those living in Los Caballeros and no one that he knows of ever read anything in the paper or received anything notifying them of this proposal and this is the first time he has ever seen where people to be impacted by something like this weren't personally notified. Cindy Rowland stated that it's possible that they weren't notified because they didn't live within the required footage of the site in question. Mr. Nardelli stated that this only pertains to specific zoning case public hearings and this was not a legal zoning case.
- Mr. Shumway stated that the present site is to remain as is for the AM and is not up for discussion at this point. Mr. Nardelli stated that he is probably correct; however, stated that he believes the same people will be at the Council meeting and the better prepared they come, the better for everyone involved.
- Mr. Nardelli questioned what the ground elevation at the proposed site is. Mr. Nardelli stated that Ms. Wellik didn't realize it was going on top of hospital hill the last time, and therefore, without knowing the ground elevation at the site, we can't be sure of its visibility. Mr. Nardelli stated that even though it's 11 miles from Town, if it's high enough, it may very well be very visible from Town. Mrs.

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Anderson stated that the USGS publishes topographical maps and she would like to see one with the exact location on the map. Mr. Shumway stated that nevertheless, this still has nothing to do with the Airport. Mr. Nardelli stated that he is not disagreeing with that; however, there are people here that will be back when this goes to Council and we can either go all through it again, or we can provide them with the information ahead of time and they may not show up.

- Alan Torgerson disagreed that the existing tower is not the Airport Commission's concern in that it constitutes a hazard to aircraft and it's still something that pilots are concerned about. Chairman Gant requested a topo map so it can be provided to Council. Mr. Nardelli stated that he would contact Glenn Bush. Mr. Shumway stated that the proposed tower is out of the Town's jurisdiction and the Town cannot comment but you could comment as individuals. Mr. Nardelli stated that if people within the Town's influence area have a concern, the Council can certainly listen to that concern. Mr. Nardelli stated that the Town has taken positions on matters, and commented on issues, in other areas such as Morristown for example. Mr. Shumway stated that as individuals the Commissioners can comment. Mr. Shumway stated that he would provide the Town with a topo map showing the exact location.
- Chairman Gant stated that as far as the Commission's recommendation to Council, he thinks they would have to say that it is outside the Airport's influence area but added that he thinks we can still say whether we're in favor of a tower that tall that close.
- Ms. Wellik questioned if Mr. Shumway owns hospital hill. Mr. Shumway stated that it is a ten-year lease with a ten-year renewal clause.
- Commissioner McGuire moved to table this item until we see a specific location map. Vice Chairman Eppard seconded the motion. Mr. Nardelli stated that the Commission can't really table it if they want to make a recommendation to Council as the comment period deadline is May 21, 1993 and Council will be considering it on May 17, 1993. Commissioners McGuire and Eppard withdrew the motion and second.
- Commissioner DeVries moved that the Commission recommend to Council, opposing the tower as an 800'+ tower is a hazard or obstruction to pilots in that area. Vice Mayor Eppard seconded the motion. Commissioner Badowski stated that he thinks this is improper as it is not within our sphere of influence. Bailey Potter, Los Cab resident, questioned what the Airport's sphere of influence is. Chairman Gant stated that the Airport's sphere of influence for navigational purposes is three miles. Mr. Nardelli stated that there are two different ways the



**URGENT AND/OR VOLUNTARY COLLECTION LIMITATIONS**

DALE A. HEAD  
GREGORY A. LARSON

LAW OFFICES OF  
DALE A. HEAD  
3636 NORTH CENTRAL AVENUE, SUITE 1100  
PHOENIX, ARIZONA 85012  
TELEPHONE (602) 265-7335  
FACSIMILE (602) 265-7372

May 7, 1993

*Rec'd 5-10-93  
ljb  
JTDW*

Honorable Dallas C. Gant, Jr.  
Chairman  
Airport Advisory Commission  
Post Office Box 1269  
Wickenburg, Arizona 85358

Re: Proposed Extension of  
Circle S Broadcasting FM/AM Tower

Dear Mayor Gant:

This letter is written on behalf of Viola F. Welik,  
personally, and on behalf of the Flying E Ranch, to oppose approval  
by the Town of Wickenburg Airport Advisory Committee of Mr.  
[REDACTED]

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Honorable Dallas C. Gant, Jr.  
May 7, 1993

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and around the Town of Wickenburg because of the unsightliness of the structure. It is not an understatement to say that the beauty of the surrounding desert terrain has been significantly diminished by reason of Mr. Shumway's tower. It would be an aesthetic tragedy to allow expansion of the tower as is now being considered.

#### **SAFETY CONCERNS**

Some of the guests of the Flying E Ranch travel to and from that resort by private airplane, using the Wickenburg Airport. In 1991, when Mr. Shumway initially applied for authority to construct the existing broadcasting tower, objections were lodged with the FAA by the Arizona Pilots Association. A copy of President Timm's letter of December 7, 1991, is enclosed herewith. One additional objection was made by the Arizona Department of Transportation, a copy of that agency's letter of February 28, 1992, is enclosed. Both of these agencies expressed concerns about flight safety. This sentence in the enclosed ADOT letter is especially noteworthy:

If principal conditions this tower could

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Honorable Dallas C. Gant, Jr.  
May 7, 1993

Should the Town Council wish to voice its position to the FCC as invited to do in the FCC's Notice of March 8, 1993, paragraph eight calls for comments on or before May 21, 1993.

Thank you for your consideration of the important matter discussed in this letter.

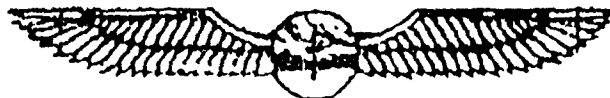
Very truly yours,



DALE A. HEAD

DAHsh

cc: Mrs. Viola F. Wellik



Arizona Pilots Association

P.O. Box 91247 - Phoenix, Arizona 85062-1247

December 7, 1991

Post-It™ brand fax transmittal memo 7671		# of pages +	
To	Rm Puzis, KA	From	Brian S. Thomas
Co.		Co.	Mark Carpenter's Off.
Dept.	STATE LAND	Phone #	506 111
Fax #		Fax #	506 5997

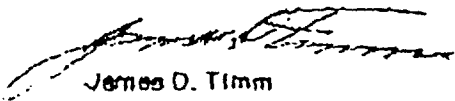
Manager  
Systems Management Branch AWP-530  
Federal Aviation Administration  
P.O. Box 92007  
Worldway Postal Center  
Los Angeles, CA 90009

Ref: Aeronautical Study No. 91-AWP-869-OE

The Arizona Pilots Association, representing general aviation pilots and aircraft owners in the state of Arizona wishes to submit a response to the referenced aeronautical study.

It is the opinion of the Arizona Pilots Association that construction of the proposed FM broadcast tower at the requested height on the indicated site would constitute an undue and unnecessary hazard to air navigation due to its close proximity to the Wickenburg Municipal Airport (E25). In addition to the air navigation hazard, there is also a concern of radio communication interference for aircraft using Wickenburg airport.

Respectfully,

  
James D. Timm  
President

JDT:ms



DEPARTMENT OF TRANSPORTATION

AERONAUTICS DIVISION

2612 South 46th Street, Phoenix, Arizona 85034-7417  
(602) 255-7691 - FAX (602) 255-7037



FIFE SYMINGTON  
Governor

GARY ADAMS  
Division Director

CHARLES E. COWAN  
Director

February 28, 1992

Mr. Howard S. Yoshioka  
Supervisor, Planning Section  
Airspace and Procedures Branch  
Federal Aviation Administration  
P.O. Box 92007  
Worldway Postal Center  
Los Angeles, CA 90009

RE: Construction of an FM Antenna 2.8 NM South of Wickenburg Airport.  
Aeronautical Study No 91-AWP-0869-0E

Dear Mr. Yoshioka:

Although the Aeronautics Division did not comment during the initial stages of the approval process, we do wish to voice opposition to this proposal at this time.

While the traffic pattern at Wickenburg Airport has, by local direction, been positioned north of the airport, transient pilots may or may not be aware of this fact. If a cross country aircraft is approaching Wickenburg from the south, the natural thing for the pilot to do would be to set himself up on a south downwind for Runway 23. In marginal

3. Discussion/Action on Request from Michael Curtis of Martinez and Curtis for Increase In Their Hourly Rate Charged the Town for Services to our Electric and Water Utilities

Councilmember Newton questioned how many hours per year, average, Martinez and Curtis, bill the Town. Bill Sullivan stated that it is presently about three to four hours per month on water/electric issues.

Town Manager Nardelli stated that there are times when he is contacted by Martinez and Curtis with an important or urgent situation when he will authorize their representation on behalf of the Town.

In regard to the recent filing by APS for their Certificate of Convenience for Necessity, and their defining their territory, Mr. Curtis and Mr. Sullivan stated that the fee would be approximately \$400 per month and could be reduced depending on what other electric municipalities choose to join and file a joint intervention thereby pooling the cost and reducing the cost for each.

Councilmember Peterson gave a summary of past legal services paid out from approximately 1985/86.

Following discussion, Vice Mayor Williams moved that the increase in the hourly rate charged by Martinez and Curtis for legal services required for water and electric issues, be approved. Councilmember Little seconded the motion and it passed unanimously.

4. Discussion/Action on Notice From Federal Communications Commission on Circle S Broadcasting's Filing for FM Radio Tower Site with Height of 841' Located south of Wickenburg Way and West of Vulture Mine Road (Approximately Six Nautical Miles South of Airport)

Councilmember Peterson stated that he is an employee of Circle S Broadcasting and therefore, will recuse himself from discussing or voting on this matter.

Town Manager Nardelli stated that the request before the Council is for comments received from the FCC. Mr. Nardelli clarified that this is not an extension of the existing radio tower, but rather, is a proposal for a second tower at a different location. Mr. Nardelli stated that the Airport Advisory Commission reviewed this request and they are recommending that the Council forward letters to the FCC and FAA recommending against construction of tower. Mr. Nardelli stated that their recommendation is based on FAA regulations which states that any structure above 500' is considered an obstruction to an Airport and although it is not within their three mile influence area, it is still, under FAA regulations, considered an obstruction.

Town Manager Nardelli presented a larger drawing of the site shown on a topographical map. Mayor Gant, also Chairman of the Airport Commission, stated that they did take, mostly negative, comments on this proposal at the Commission level; however, most of the comments were directed at the existing tower. Mayor Gant stated that the Commission did recommend against it because it would be a hazard to the flying public.

Mr. Nardelli informed Council that under FAA regulations, the height of an obstruction within the Airport 3-mile influence area, is anything above 200' and anything outside that area, an obstruction is defined as anything 500' or more.

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Councilmember Garcia questioned the distance of the proposed site from the Airport. Mr. Nardelli stated that according to the petitioner, he stated that it was about six miles; however, he (Mr. Nardelli) feels it's more like 11 miles from the Airport as it is right by the Vulture Mine itself. Mr. Garcia questioned if the site would be on a hill or level ground. Mr. Garcia stated that it's the jets that really get down to the bottom of a ravine and they're more subject to hitting a tower in that country, but as for the private planes, he doesn't see any chance of hitting a tower. Mr. Garcia stated that about a year ago, the Council voted against putting a tower on hospital hill, but it was built anyway. Mr. Garcia stated that he feels this is out of our jurisdiction. Mr. Nardelli stated that the Town cannot grant approval or denial -- the Town can just comment and the various agencies take those comments into consideration in their approval process. Mr. Nardelli stated that although the Council recommended against the existing tower, the County Board of Supervisors voted to issue a special use permit anyway. Mr. Nardelli stated that we can only comment to the approving agencies. Mr. Nardelli stated that regardless of which way the comments go, he thinks the Council should at least comment.

Mayor Gant stated that this tower is currently at the FCC level and we will probably be hearing from the FAA and County in the future.

Dale Shumway, attorney from Mesa representing Harold Shumway of Circle-S Broadcasting. Mr. Shumway stated he agrees with Mr. Garcia's comments in that this is not the Town of Wickenburg's jurisdiction.

Mr. Shumway gave a brief history on what transpired before when the existing tower was built. Mr. Shumway stated, "Circle-S Broadcasting (CSB) purchased this radio station, an FM and AM station, in 1990. They then went before the FCC to increase the power and to install a tower which now exists. I think it's well to go back to the record and see what happened when that came before you before. The mayor at that time made a motion which said 'let's submit a letter to the FAA with our sole comment being from a liability standpoint,' recognizing that the application was not before you, simply a request to make comments. Subsequent comments were included and were placed in a letter signed by the Town Attorney and he said this, quoting Mayor Mason: 'The Town is not opposed to the radio station going out there and putting a tower up per se. The question of the liability is the only reason we voted the way we did in regard to this. A letter like that will go with this notification stating so. We are not opposed to the tower -- only to the limitations and liability we may have with the tower being there.' That was referring to the question of whether the tower site was within the sphere of influence of your Airport. It was determined it was not, but yet you have concern over possible liability."

Mr. Shumway stated that there are obstructions and hazards within one mile of Sky Harbor Airport in Phoenix such as towers and skyscrapers and within four miles, there are probably 30-40 buildings that are deemed as obstructions under FAA, however, that major airport with hundreds of flights per day and they seem to operate fine. Mr. Shumway stated that the Town's airport's approach patterns are north of the Airport and most pilots would not be flying in the area proposed for the proposed tower, or where the existing tower is. Mr. Shumway stated that the Council needs to restrict themselves to considering what this does to the Town's sphere of influence. Mr. Shumway stated that by going beyond that, he thinks could tread upon interfering with a business relationship of the applicant.



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Mr. Shumway stated that the applicant doesn't need to have objections which somehow cause questions that really don't relate to what the Town's problems are.

Mr. Shumway stated that he would like to refer to some of the materials in the Council packet. Mr. Shumway stated that it is not six miles from the airport and that is not correct. Mr. Shumway stated that it is 18.65 nautical miles, or approximately 12 miles from the airport. Mr. Shumway stated that there is no proposal to increase the height of the existing tower and that tower is to remain as is. Mr. Shumway stated that CSB is after two things: a change of frequency and an increase in power and only those two things are what's applied for. Mr. Shumway stated, "There would be nothing here in regard to a second tower except that the FCC has determined that in order for this radio station to properly cover this community, the community of licensing, there needs to be a higher tower, so that is what they have said in regard to this thing. So absence is showing that a site can be available, then there may not be a granting of these rule changes." Mr. Shumway continued, "They've asked for comments -- not comments from you as to whether you think this will be detrimental to somebody's vision because that's not what the issue is before the FCC. The issue simply before the FCC is 'Will it interfere with some technical aspects?' Basically, it's a question of the radio stations -- 'Will this frequency interfere with you?' They also send it to you because you're a municipality within the area and you can object, but solely from a technical ground -- not from a ground of whether neighbors in the area don't want the tower there. That's not the issue -- that will be the issue if we go before the Maricopa County Planning and Zoning Board and ultimately the Board of Supervisors for approval of the site. But that's when that will come up. The issue before you now is simply a technical one and Councilmember Garcia correctly stated that the question is not whether you oppose this for aesthetic or other reasons -- it's whether you have a right to oppose it as it relates to your area. In my way of thinking, that is not the position you have."

Mr. Shumway summarized that the application CSB has filed is for a change of frequency and an increase in power and that increase in power will require this additional tower. Mr. Shumway stated that they don't feel it can possible be an obstruction to the Airport although it is over 500' high. Mr. Shumway stated that there are mountains out there and Vulture Peak itself is an obstruction to the Airport under those rules. Mr. Shumway requested that Council take no action in regard to the FCC and if, at a later time, the residents wish to fight this before the Board of Supervisors, they will talk about it at that time.

Vice Mayor Williams addressed Mr. Shumway's comments of the only way the Council can comment is on a technical ground. Ms. Williams stated that the Council represents the people of this town and in her opinion, the Council's opinion is what the people say. Ms. Williams stated that she doesn't feel the Council can comment on solely a technical ground and when she sees a proposed 841' tower, she has a problem with it.

Mr. Shumway stated that the application before the FCC is a very technical one talking about frequencies and how well it covers.

Mr. Nardelli stated that he would think that mountains are an easier obstruction to miss than a tower and aren't really comparable. Mr. Nardelli stated that if Mr. Shumway's opinion is that the Town should only comment on a technical nature, he thinks the object of obstruction is certainly one we can comment on.

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Dale Shumway stated that the bulletin states, "Interested parties may file comments," but it does not deal with hazards, which is an FAA issue, and this is an FCC matter.

Mr. Nardelli stated that if Council should submit a comment based on its being an obstruction, the FCC can certainly choose to ignore the comments and therefore, feels Council should make their recommendation on what they hear from the Airport Advisory Commission and if the FCC feels the comment to be inappropriate, they can ignore it.

Councilmember Little commented that she feels the Airport Advisory Commission has given them the best advice and would consider it as technical advice. Ms. Little stated that to compare Wickenburg's Airport and area to Phoenix with skyscrapers and towers, is ludicrous as Wickenburg is a small open-area community and the pilots flying into Wickenburg certainly don't expect obstructions such as this, while they look out for them and expect them flying into a large city airport. Ms. Little stated that the issue to the Town Council is their constituents and their liability and obstructions. Ms. Little stated that she agrees with the Airport Commission's recommendation. Mr. Shumway stated that the Airport Commission was making a recommendation under the impression that it was six miles from the airport while it is actually about 11 miles from the Airport and somehow they got confused. Mr. Nardelli stated that they received that information from the applicant, Harold Shumway.

Vice Mayor Williams moved that the Town of Wickenburg recommend to the Federal Communications Commission and the Federal Aviation Administration that the request from Circle S Broadcasting to construct an 841' radio tower, be denied based on FAA regulations in regard to obstructions. Councilmember Little seconded the motion.

Alan Torgerson, resident of Wickenburg, stated that the proposed site is at about 2,600' and if you add an 841' tower, we are up to about 3,500' which is about the present site of Vulture Peak. Mr. Torgerson stated that we should all be concerned about that. Mr. Torgerson stated that it is true that the proposed tower is 11.6 miles from the "community" which makes it about 9.6 miles from the Airport. Mr. Torgerson states that this puts it in a fairly close proximity to the Airport.

Mr. Torgerson then addressed the present tower by stating that a couple letters were written, one of which was from the Arizona Pilots' Association which talks about the FM broadcast tower and the kind of interference it should get from an FM broadcast -- not only on our television sets, but also on navigational instruments. Mr. Torgerson stated that this letter objected to building the present tower. Mr. Torgerson stated that they are now proposing an increase in power from the present 6kW to 25kW with the new location being only about four miles further than the existing tower. Mr. Torgerson expressed concern over a possible increase in interference to navigational instruments, and the television sets in the community, by going from 6kW to 25kW. Mr. Torgerson stated that at the present time there is interference on Channels 8 and 10.

Mr. Torgerson questioned what increasing the power to 25kW will provide to the Town of Wickenburg that the 6kW is not providing us and questioned why they need the extra FM power.

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Harry Combs, Wickenburg winter resident, stated he uses the Wickenburg Airport and the Wickenburg Airport has no instrument approach systems and the pilots have to approach it under VFR (Visual Flight Rule) conditions. Mr. Combs stated that the only logical way to approach this airport in overcast weather conditions, where we would meet VFR conditions, is by making a let down over the valley and going up one of two passage-ways: either up the Hassayampa or coming up west of Vulture Peak, which is the way he comes up, and in uncertain weather, you could see a mountain, but you could not see that tower.

Richard Kiely, year-around resident of Wickenburg and pilot, stated that if you fly from the Buckeye DOR, it will take you on a direct line to Wickenburg Airport and you will come relatively close to the tower. Mr. Kiely questioned what area the "community of licensing" serves, which he thought was Wickenburg, and doesn't see why he needs an increase to 25kW to serve Wickenburg. Mr. Kiely stated that perhaps he wants to serve the entire State of Arizona.

Vi Wellik, owner of Flying E Ranch, stated that to look at this (existing) miserable red-light tower defacing the beauty of Vulture Peak is a disgrace. Ms. Wellik stated that she cannot understand how this tower was allowed without an environmental study and what it would do to the beauty of Vulture Peak.

Dale Shumway responded to some of the comments made. Mr. Shumway stated that their engineer advised that with the proposed tower, there will not be interference. Mr. Shumway stated that when the existing tower was being considered, the FAA's study showed that this would not be an area pilots would be. Mr. Shumway stated that neither the existing nor the proposed tower is within the Airport's flight pattern. Mr. Shumway responded to servicing the area. Mr. Shumway stated that this radio station needs the added power to give the coverage in the area in which they are licensed to cover. Mr. Shumway stated that the coverage is not only to the City of Wickenburg but is to a sphere of influence and to cover that sphere, they need the added power. Mr. Shumway stated that in regard to interference, there is interference from other places also and that is from a Tucson radio station and therefore, you cannot say that you

**DRAFT**



# TOWN OF WICKENBURG